

**Matthew Righetti (121012)**

***Admitted Pro Hac Vice***

**John Glugoski (191551)**

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UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
Richmond Division

In re:	)	Chapter 11
	)	
CIRCUIT CITY STORES, INC., <i>et al.</i> ,	)	Case No. <b>08-35653</b>
	)	
_____ Debtors.	)	Jointly Administered

**MOTION FOR LEAVE OF COURT TO ATTEND HEARING BY TELEPHONE**

JOHNATHAN CARD, on behalf of himself and all others similarly situated, JOSEPH SKAF, on behalf of himself and all others similarly situated, ROBERT GENTRY, on behalf of himself and all others similarly situated, and JACK HERNANDEZ, on behalf of himself and all others similarly situated ("Creditors"), by and through their undersigned counsel, hereby request that the Court permit Creditors' counsel to appear telephonically at the April 15, 2010 Hearing at 2:00 p.m. on Creditors Card, Skaf, Gentry and Hernandez's Omnibus Motion Requesting An Order Applying Bankruptcy Rule 7023 To Their Class Proofs of Claim Pursuant to Bankruptcy Rule 9014(C). In support of this Motion for Leave of Court to Attend Hearing By Telephone, Creditors state as follows:

1. On November 3, 2008, Creditor Card filed his lawsuit on behalf of himself and all other assistant managers employed by Debtors seeking overtime compensation, compensation for missed meal and rest breaks, waiting time penalties and attorneys' fees under California law. The class action-styled case, which is entitled *Card v. Circuit City, Inc.*, is filed in the San Diego Superior Court, Case No. 37-2008-00095260-CU-OE-CTL. Creditor Card seeks to represent all California-based assistant managers who were employed by Debtors and who were not paid overtime compensation, or provided meal and rest breaks. Considerable state trial court litigation occurred prior to the bankruptcy filing.

2. On December 19, 2008, Creditor Skaf filed his lawsuit on behalf of himself and all other California-based salaried "Entertainment Managers", "Technology Managers", "Service & Installation Managers", "Sales Managers", and "Operations Managers" employed by Debtors seeking overtime compensation, compensation for missed meal and rest breaks, waiting time penalties and attorney's fees under California law. The class action-styled case, which is entitled *Skaf et al. v. Circuit City, Inc.*, is filed in the Los Angeles Superior Court, Case No. BC404195. Creditor Skaf seeks to represent all California-based "Entertainment Managers", "Technology Managers", "Service & Installation Managers", "Sales Managers", and "Operations Managers" who were employed by Debtors and who were not paid overtime compensation, or provided meal and rest breaks. Considerable trial court litigation occurred prior to the bankruptcy filing.

3. On August 29, 2002, Creditor Gentry filed his lawsuit on behalf of himself and all other customer service managers employed by Debtors seeking overtime compensation, compensation for missed meal and rest breaks, waiting time penalties and attorneys' fees under California law. The class action-styled case, which is entitled *Gentry v. Circuit City, Inc.*, is filed in the Los Angeles Superior Court, Case No. BC 280631. Creditor Gentry seeks to represent all California-based salaried customer service managers who were employed by Debtors and who were not paid overtime compensation, or provided meal and rest breaks. Considerable state trial court litigation occurred prior to the bankruptcy filing.

4. On April 17, 2008, Creditor Hernandez filed his lawsuit on behalf of himself and all other sales managers employed by Debtors seeking overtime compensation, compensation for

missed meal and rest breaks, waiting time penalties and attorneys' fees under California law. The class action-styled case, which is entitled *Hernandez v. Circuit City, Inc.*, is filed in the San Diego Superior Court, Case No. 37-2008-00082173. Creditor Hernandez filed this case as a class action to represent all California-based salaried sales managers who were employed by Debtors and who were not paid overtime compensation, or provided meal and rest breaks.

5. On January 13, 2009, Creditors Card, Skaf, Gentry, and Hernandez, through their counsel, timely filed class proofs of claim with claims administrator Kurtzman Carson Consultants. Creditor Card's claim numbers 6040 and 6047. Creditor Skaf's claim is identified as claim numbers 13724 and 13744. Creditor Gentry's claim is identified as claim number 6039. Creditor Hernandez's claim is identified as claim number 6045.

6. On March 31, 2010, Creditors Card, Skaf, Gentry and Hernandez filed Creditors' Omnibus Motion Requesting An Order Applying Bankruptcy Rule 7023 To Their Class Proofs Of Claim Pursuant to Bankruptcy Rule 9014(c) (Docket # 7062). The hearing for said motion was duly noticed and is scheduled to be heard on April 15, 2010 at 2:00 p.m. Debtor has not indicated whether it will contest the relief requested by Creditor. Any objection or opposition from Debtor is due to be filed on April 13, 2010.

7. On November 13, 2008, the Court entered an Order Pursuant to Bankruptcy Code Section 102 and 105, Bankruptcy Rules 2002 and 9007, and Local Bankruptcy Rules 2002-1 and 9013-1 Establishing Certain Notice, Case Management, and Administrative Procedures (the "Order"). Page 5 of Exhibit A to the Order states:

- (g) Upon request, the Court may allow counsel to listen to a hearing by telephone. If a matter is contested, counsel must attend in person, unless leave of the court is granted on a case by case basis.

8. Creditors' counsel is located in California State. Creditors have been admitted to appear before this Court *Pro Hac Vice* (Docket # 6298 and # 6853). While Creditors are unaware at this time whether Debtor objects to the application of Bankruptcy Rule 7023 to their proofs of claim, Creditors presume an opposition or objection will be filed on April 13th.

Therefore, it is likely this will be a contested matter. In order to avoid the time and expense of traveling to Virginia for the hearing, Creditors' counsel respectfully requests that the Court permit Creditors' counsel to appear by telephone at the April 15, 2010 hearing, rather than make a personal appearance.

**WHEREFORE**, Creditors Jonathan Card, on behalf of himself and all others similarly situated, Creditors Joseph Skaf, on behalf of himself and all others similarly situated, Creditors Robert Gentry, on behalf of himself and all others similarly situated and Creditors Jack Hernandez, on behalf of himself and all others similarly situated, ("Creditors"), respectfully request that this Court grant this request and enter an order substantially in the form attached hereto permitting Michael Righetti to appear and be heard by telephone at the hearing on April 15, 2010 on behalf of the Creditors and grant such other relief as necessary and appropriate.

Respectfully submitted,

**RIGHETTI LAW FIRM, P.C.**

Dated: April 2, 2010

/s/ Michael Righetti

Michael Righetti  
*Admitted Pro Hac Vice*

**FULLERTON & KNOWLES, P.C.**

/s/Richard I. Hutson

Richard I. Hutson

Counsel to Jonathan Card, on Behalf of  
Himself and All Others Similarly Situated,  
Joseph Skaf, on Behalf of Himself and All  
Others Similarly Situated, Robert Gentry, on  
behalf of himself and all others Similarly  
Situated and Creditors Jack Hernandez, on  
behalf of himself and all others Similarly  
Situated

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In re:	)	Chapter 11
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CIRCUIT CITY STORES, INC., et al.,	)	Case No. <b>08-35653</b>
	)	
<u>Debtors.</u>	)	Jointly Administered

**ORDER GRANTING  
MOTION FOR LEAVE OF COURT TO ATTEND HEARING BY TELEPHONE**

Upon consideration of the Motion for Leave of Court to Attend Hearing by Telephone, and it appearing that the motion having been served upon counsel for Circuit City Stores, Inc., et al. (the "Debtors"), counsel for the Official Committee of Unsecured Creditors, and the Office of the United States Trustee for the Eastern District of Virginia, and after due deliberation and sufficient cause appearing therefore, it is hereby,

**ORDERED**, that the Motion is **GRANTED** and Michael Righetti is permitted to appear and be heard by telephone at the hearing on April 15, 2010 at 2:00 p.m. on behalf of Creditors Jonathan Card, on behalf of himself and all others similarly situated, Joseph Skaf, on behalf of himself and all others similarly situated, and Creditors Jack Hernandez, on behalf of himself and all others similarly situated, and Robert Gentry, on behalf of himself and all others similarly situated.

\_\_\_\_\_, 2010

\_\_\_\_\_  
HONORABLE KEVIN R. HUENNEKENS  
UNITED STATES BANKRUPTCY JUDGE

We ask for this:

/s/ Michael Righetti  
*Admitted Pro Hac Vice*  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 6th day of April 2010, a copy of the foregoing Motion and Proposed Order was served by electronic service upon the following:

Skadden, Arps, Slate, Meagher & Flom, LLP  
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Attn: Ian S. Fredericks

Circuit City Stores, Inc., et al.  
Claims Processing Department  
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/s/Richard I. Hutson

Richard I. Hutson